

MINUTES OF THE COMMISSION MEETING

Commissioner Steve Kolbeck called the meeting to order. Present were: Executive Director Patty Van Gerpen; Deputy Executive Director Heather Forney; Commission Advisor Greg Rislov; Commission Attorneys Rolayne Wiest and John Smith; Staff Attorneys Karen Cremer and Kara Van Bockern; Staff Analysts Keith Senger, Harlan Best, Brian Rounds, Dave Jacobson, Steve Wegman, and Bob Knadle; Consumer Affairs Supervisor, Deb Gregg; and Administrative Secretary Anissa Grambihler.

Also present were: Brett Koenecke, May, Adam, Gerdes and Thompson, representing NorthWestern Energy; Bob Miller, South Dakota Electric Utility Companies.; Pam Bonrud, NorthWestern Energy; and Ms. Darla Pollman Rogers, Riter, Rogers, Wattier & Brown, representing Sioux Valley Energy Cooperative and South Dakota Telecommunications Association.

Joining the meeting by telephone were: Chairman Dustin Johnson; Vice-Chairman Gary Hanson; Talbot Wieczorek, Gunderson, Palmer, Goodsell & Nelson, representing Sprint Communications Company L.P.; Mary Sisak, Blooston, Mordkofsky, Dickens, Duffy and Pendergast, representing Swiftel Communications; Colleen Sebold, Qwest Corporation; James Overcash, Woods and Aitken, representing Interstate Telecommunications Cooperative, Inc. (ITC); Richard Thayer, representing Level 3 Communications, LLC; Ryan Taylor, Woods, Fuller, Shultz & Smith P.C., representing Interstate Telecommunications Cooperative, Inc. (ITC); Jeff Decker, NorthWestern Energy; Kenna Hagan and Bob Usera, Black Hills Electric Cooperative; Rita Mulkern and Stephanie Bash, Montana-Dakota Utilities Co; Dave Semerad, West River Electric Cooperative; Erica Voss; Michael McCreight; and Nick Antony.

Consumer Reports

1. Status Report on Consumer Utility Inquiries and Complaints Received by the Commission. (Consumer Affairs: Deb Gregg)

The Commission has received a total of 69 contacts since the last report was prepared for the May 8, 2007, Commission meeting. 17 of the contacts involved telecommunication services, 19 of the contacts involved electrical services, 7 contacts involved natural gas services, 10 contacts involved cellular phone service, 8 contacts were related to the Do Not Call Registry, and 8 contacts were related to issues not regulated by the PUC. 858 of the 1,046 complaints received in 2007 have been resolved. 2,252 of the 2,466 complaints received in 2006 have been resolved.

Consumer Complaints

1. In the Matter of Complaints Filed Against eChurch Network Regarding Unauthorized Billing in Dockets CT06-008 and CT06-009

CT06-008 In the Matter of the Complaint filed by Siesta Motel, Mitchell, South Dakota, against eChurch Network Regarding Unauthorized Billing (Staff Analyst: Deb Gregg, Staff Attorney: Kara Van Bockern)

CT06-009 In the Matter of the Complaint filed by Motel 6, Mitchell, South Dakota, against eChurch Network Regarding Unauthorized Billing (Staff Analyst: Deb Gregg, Staff Attorney: Kara Van Bockern)

Ms. Kara Van Bockern stated that she appreciates the consumers who completed the complaint process and bring forth to the attention of the Commission the unauthorized charges brought on by companies. Ms. Van Bockern stated complainants wish to withdraw their filings and recommends that the Commission dismiss the complaints and close the dockets. Ms. Gregg stated the complainants noticed an unauthorized charge on their telephone bill, contacted the company right away regarding the charge, and did not pay the unauthorized long distance charges.

Chairman Johnson moved to dismiss both the complaints and close Dockets CT06-008 and CT06-009. Motion passed 3-0.

Commissioner Kolbeck moved to move docket CE07-001 to the end of the agenda. Motion passed 3-0.

Electric

1. EL06-020 In the Matter of the Application by Navitas Energy, Inc. for an Energy Conversion Facility Permit for the Construction of the White Wind Farm and Associated Collection Substation and Electric Interconnection System (Staff Analysts: Martin Bettmann/Bob Knadle/Nathan Solem, Staff Attorney: Karen Cremer)

Ms. Darla Pollman Rogers, representing SDREA and Sioux Valley Energy (Sioux Valley) stated the proposed wind farm is located in Sioux Valley's service territory. Ms. Rogers stated the stipulation provides for the provisioning of station power by Sioux Valley to the wind farm, and the stipulation limits the use of the collector lines and circuits for the transmission of power generated by the turbines to wholesale sales of said power. Staff recommended approval of the stipulation.

Commissioner Kolbeck moved to approve the stipulation. Motion passed 3-0.

2. **EL07-016 In the Matter of the Joint Request for an Electric Service Territory Boundary Change between Charles Mix Electric Association, Inc. and Douglas Electric Cooperative, Inc. (Staff Analysts: Nathan Solem/Martin Bettmann, Staff Attorney: Karen Cremer)**

Ms. Karen Cremer stated that the relocation of the boundary line would transfer lot A, W.J. Bertram 1st addition in Government Lot 6 in the north half of the NW Quarter of Section 31, Township 98N, Range 63W, Charles Mix County, from Charles Mix Electric to Douglas Electric as Douglas Electric is better able to serve the customer based on the proximity of its distribution lines. The relocation of the boundary results in the elimination of duplication of service and reduced power line extension costs. The landowner has agreed to the proposal. Staff recommends approval of the electric service territory boundary change.

Chairman Johnson moved to approve the Electric Service Territory Boundary Change. Motion passed 3-0.

3. **EL07-017 In the Matter of the Joint Request for an Electric Service Territory Boundary Change between Black Hills Power, Inc. and West River Electric Association, Inc. (Staff Analysts: Nathan Solem/Martin Bettmann, Staff Attorney: Karen Cremer)**

Ms. Karen Cremer stated that the relocation of the boundary line would clarify who the electric service provider is for future development, which will result in the elimination of duplication of service and promote the efficient and economical use and development of the electrical systems. Ms. Cremer stated no existing customers or electrical facilities are affected and the landowner has agreed in writing to the proposal. Staff recommends approval of the electric service territory boundary change.

Vice Chairman Hanson moved to approve the Electric Service Territory Boundary Change. Motion passed 3-0.

Natural Gas

1. **NG07-011 In the Matter of the Filing by NorthWestern Corporation d/b/a NorthWestern Energy for Approval of a Contract with Deviations with Millennium Ethanol, L.L.C. (Staff Analyst: Dave Jacobson, Staff Attorney: Karen Cremer)**

Mr. Jeff Decker, NorthWestern Energy (NWE) stated that NWE is seeking to build 32 miles of pipeline. The proposed tariff revisions would ensure construction costs are recovered. Mr. Dave Jacobson stated that the method of determining the rate in this contract is the same as used in previous filings of such contracts. Mr. Jacobson recommended that the Commission approve the contract with the condition that NWE submit a report to the Commission upon completion of the project identifying the actual costs of the facilities constructed for providing service to the customer. Mr. Jacobson stated that approval of the contract does not pre-determine a Commission decision at the time of future rate case proceedings regarding rate

treatment concerning possible cost recovery shortfalls resulting from rates approved in this docket.

Commissioner Kolbeck moved to approve the tariff revisions and approve the contract with deviations and requiring NorthWestern Energy to submit a cost analysis report upon completion of the construction project. Vice Chairman Hanson abstained from voting. Motion passed 2-0.

2. NG07-012 In the Matter of the Filing by Montana-Dakota Utilities Co. for Approval of Tariff Revisions Regarding the Experimental Conservation Program Tracking Mechanism Rate 90. (Staff Analysts: Dave Jacobson/Brian Rounds/Steve Wegman, Staff Attorney: Karen Cremer)

Ms. Rita Mulkern, Montana-Dakota Utilities Co. (MDU) stated MDU has hosted several conservation open houses and that information regarding conservation measures and programs has been provided in bill inserts. Ms. Mulkern stated that the total program expenses, including the lost distribution revenue component to be recovered under the Conservation Tracking Adjustment (CTA) over the next twelve month period, equate to \$20,080 for the Black Hills System and \$5,250 for the East River System resulting in a CTA applicable to service under Rates 60, 70, and 72 of \$.003 per dk and a CTA applicable to service under Rates 66 and 76 of \$.007 per dk. Ms. Mulkern also stated that the proposed CTAs would be shown as a separate line item on customers' bills and the applicable CTA will be applied to a customer's billed energy use each month effective upon approval by the Commission through April 30, 2008. Mr. Dave Jacobson stated the company is merely instituting the charge which results from implementation of its Experimental Conservation Program (CTA). Mr. Jacobson stated that staff reviewed the charges and noted that the program is significantly less utilized than estimated in the original filing. Mr. Jacobson recommended Commission approval of the tariff revisions.

Vice Chairman Hanson moved to approve the tariff revisions. Motion passed 3-0.

2. CE07-001 In the Matter of the Complaint filed by Michael McCreight, Mitchell, South Dakota, against NorthWestern Energy Regarding Utility Service Refusal. (Staff Analyst: Deb Gregg, Staff Attorney: Kara Van Bockern)

Mr. Michael McCreight stated his claim is against NorthWestern Energy (NWE) for refusal to provide utility service to the Stardust Motel in Mitchell which he intends to lease from another individual. He intends to hire workers to renovate but cannot proceed without electrical service. Mr. Brett Koenecke, representing NorthWestern Energy (NWE) stated NWE refused to serve Mr. McCreight's request for service due to a balance owed by the former owner and operator of this same property. Mr. Koenecke stated that he believes there is a relationship between Mr. Antony, the owner, and Mr. McCreight and that no payment has been made as of this date. Mr. Koenecke stated the city of Mitchell has shut off the water due to an outstanding balance owed and the State Health Department has revoked the Stardust Motel's license. While NWE contends the property is not residential, it is perfectly clear that there are no attempts forthcoming to liquidate the debt, and the applicant is attempting to return service. Mr. Koenecke

also stated that the owner has a pattern of individuals moving into a property and switching customer names. Previous balances therefore remain unpaid and NWE does not appreciate being gamed. Mr. Koenecke stated that Michael McCreight has complained to the Commission that NWE has wrongfully refused to serve the Stardust Motel property in Mitchell, South Dakota, at 200 E. Havens Ave and 710 and 712 S. Lawler. Mr. Koenecke further stated that NWE denies the allegations of the complainant, and puts Mr. McCreight to his strict proof thereof, and asks the Commission to dismiss the Motion, and the Petition in its entirety. NEW requests the Commission dismiss the emergency motion. Ms. Kara Van Bockern stated there is not a rule for refusal of service for this particular instance and does not recommend dismissal. Mr. John Smith stated that the Commission has not formally held a hearing or filed any notice of a hearing and NWE has a right to hearing according to the Administrative Procedures Act. The Commission's rules for refusal of service are found in ARSD 20:10:20:01, 02, and 09. NWE relies in part on (3) of 20:10:20:01 for its refusal of service. Mrs. Van Bockern stated that she would like to have both parties come to an agreement.

Commissioner Kolbeck moved to deny an emergency motion for temporary service filed by Mr. Michael McCreight of Mitchell, and encourage both parties to come to an agreement. Motion passed 3-0.

Telecommunications

1. TC06-007 In the Matter of the Petition of Level 3 Communications, LLC for Arbitration of an Interconnection Agreement with Qwest Corporation. (Commission Attorney: Rolayne Ailts Wiest)

Mr. Brett Koenecke, representing Level 3 Communications LLC, requests the Commission to withdraw the petition and terminate arbitration proceedings, knows of no further pending business, and also is requesting a refund of the deposit. Ms. Colleen Sevold from Qwest and Mr. Richard Thayer from Level 3 Communications LLC had no additional comments to add. Ms. Rolyane Wiest from staff is recommending the Commission grant the motion.

Commissioner Kolbeck moved to withdraw the petition and terminate arbitration proceedings. Motion passed 3-0.

2. TC06-030 In the Matter of the Filing by McLeodUSA Telecommunications Services, Inc. for Approval of Revisions to its Intrastate Switched Access Tariff and for Approval of Rates (Staff Analyst: Harlan Best, Staff Attorney: Karen Cremer)

Mr. Harlan Best stated that McLeodUSA originally filed a cost study which did not comply with the Commission's administrative rules. Instead, the company filed a forward looking economic cost analysis. Mr. Best stated the company has agreed to Qwest's switched access rate and has revised its filing of April 7, 2007, to have its rates mirror Qwest's rates. Therefore, staff recommends the Commission approve the revisions and rates. Mr. Smith stated that granting any exemption from cost based rates is beneficial to the consumer.

Chairman Johnson moved to approve McLeodUSA's revisions to its intrastate access tariff, approve the rates and grant an exemption from the as recommend by staff ARSD 20:10:27:11. Motion passed 3-0.

3. In the Matter of the Applications of Sprint Communications Company L.P. for Authority to Provide Local Exchange Services in Dockets TC06-178 and TC06-180.

TC06-178 In the Matter of the Application of Sprint Communications Company L.P. for Authority to Provide Local Exchange Services in Certain Rural Areas Served by Brookings Municipal Utilities d/b/a Swiftel Communications. (Staff Analyst: Nathan Solem, Staff Attorney: Kara Van Bockern)

TC06-180 In the Matter of the Application of Sprint Communications Company L.P. for Authority to Provide Local Exchange Services in Certain Rural Areas Served by Interstate Telecommunications Cooperative, Inc. (Staff Analyst: Nathan Solem, Staff Attorney: Kara Van Bockern)

Talbot Wieczorek, representing Sprint Communications Company L.P., stated that he agrees with the delay and is requesting a continuance. Mary Sisak, representing Swiftel, and Ryan Taylor, representing ITC, stated they also agree with the delay request. Kara Van Bockern stated that staff recommends the Commission approve the delay of hearings.

Vice-Chairman Hanson moved to grant the joint motion for delay of hearings. Motion passed 3-0.

4. In the Matter of the Application of MCC Telephony of the Midwest, Inc. d/b/a Mediacom for a Certificate of Authority in Dockets TC06-188 and TC06-189.

TC06-188 In the Matter of the Application of MCC Telephony of the Midwest, Inc. d/b/a Mediacom for a Certificate of Authority to Provide Interexchange and Local Exchange Services in the Brookings Exchange. (Staff Analyst: Nathan Solem, Staff Attorney: Kara Van Bockern)

TC06-189 In the Matter of the Application of MCC Telephony of the Midwest, Inc. d/b/a Mediacom for a Certificate of Authority to Provide Interexchange and Local Exchange Services in the Castlewood, Elkton, Estelline, Hayti, Lake Norden and White Exchanges. (Staff Analyst: Nathan Solem, Staff Attorney: Kara Van Bockern)

Mr. Brett Koenecke, representing MCC Telephony of the Midwest, Inc. d/b/a Mediacom ("MCC") stated that all the parties have agreed to the same language and principles and is requesting the commission grant the motion for delay of hearing. Mr. Ryan Taylor, representing Interstate Telecommunications Cooperative, Inc. (ITC), and Mary Sisak, representing Swiftel Communications, both agree with Mr. Brett Koenecke's statement. Kara Van Bockern stated that

staff recommends approval of the delay of hearings.

Commissioner Kolbeck moved to grant the joint motion for delay of hearings in Dockets TC06-188 and TC06-189. Motion passed 3-0.

5. **TC07-022 In the Matter of the Filing for Approval of an Amendment to an Interconnection Agreement between Qwest Corporation and AT&T Communications of the Midwest, Inc. (Staff Attorney: Kara Van Bockern)**

Ms. Kara Van Bockern stated that the amendment has been properly filed, has been properly executed and does not appear to contain discriminatory provisions. No comments were filed, and staff recommended approval of the Amendment.

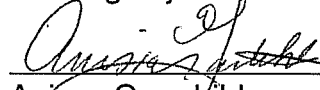
Commissioner Kolbeck moved to approve the amendment to the agreement. Motion passed 3-0.

6. **TC07-026 In the Matter of the Application of ACCESS2GO, Inc. for a Certificate of Authority to Provide Interexchange Telecommunications Services in South Dakota. (Staff Analyst: Keith Senger, Staff Attorney: Karen Cremer)**

Mr. Keith Senger from staff stated that the company is not at fault but the consultant filed an incomplete application. Therefore, the company wishes to withdraw the application, and staff recommends the commission grant the withdrawal request.

Chairman Johnson moved to grant the withdrawal of the company's certificate of authority application. Motion passed 3-0.

Meeting adjourned.



Anissa Gramblier
Administrative Secretary